

AMENDED IN ASSEMBLY JULY 6, 2005

AMENDED IN SENATE MAY 17, 2005

AMENDED IN SENATE MAY 3, 2005

AMENDED IN SENATE APRIL 4, 2005

SENATE BILL

No. 726

Introduced by Senator Florez

February 22, 2005

An act to amend Section 361.2 of, and to add Section 366.23 to, the Welfare and Institutions Code, relating to dependent children.

LEGISLATIVE COUNSEL'S DIGEST

SB 726, as amended, Florez. Dependent children.

Existing law requires a court, when ordering the removal of a child from a home, to determine if there is a parent of the child with whom the child was not living who desires to assume custody of the child, and to place the child with that parent unless the court finds that the placement would be detrimental to the safety, protection, or physical or emotional well-being of the child.

This bill would enact "Adam's Law," which would authorize a court to order that a social worker conduct a home visit within 3 months of placing a child with a noncustodial parent and to file a report with the court after conducting that home visit, as specified. The bill would also require a social worker to provide a "Caregiver Information Form" to a caregiver of a child for purposes of providing information regarding a noncustodial parent who is seeking placement or custody of the child and to ensure that, *if the foster parent completes the form*, the completed form is returned to the court for review and consideration before the child is placed with the noncustodial parent.

By imposing new duties on county employees, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as
2 “Adam’s Law.”

3 SEC. 2. Section 361.2 of the Welfare and Institutions Code is
4 amended to read:

5 361.2. (a) When a court orders removal of a child pursuant to
6 Section 361, the court shall first determine whether there is a
7 parent of the child, with whom the child was not residing at the
8 time that the events or conditions arose that brought the child
9 within the provisions of Section 300, who desires to assume
10 custody of the child. If that parent requests custody, the court
11 shall place the child with the parent unless it finds that placement
12 with that parent would be detrimental to the safety, protection, or
13 physical or emotional well-being of the child.

14 (b) If the court places the child with that parent it may do any
15 of the following:

16 (1) Order that the parent become legal and physical custodian
17 of the child. The court may also provide reasonable visitation by
18 the noncustodial parent. The court shall then terminate its
19 jurisdiction over the child. The custody order shall continue
20 unless modified by a subsequent order of the superior court. The
21 order of the juvenile court shall be filed in any domestic relation
22 proceeding between the parents.

23 (2) Order, ~~after considering concerns raised by the caretaker~~
24 ~~regarding the parent,~~ that the parent assume custody subject to
25 the jurisdiction of the juvenile court and require that a home visit

1 be conducted within three months. *In determining whether to*
2 *take the action described in this paragraph, the court shall*
3 *consider any concerns that have been raised by the child's*
4 *current caregiver regarding the parent.* After the social worker
5 conducts the home visit and files his or her report with the court,
6 the court may then take the action described in paragraph (1), (3),
7 or this paragraph. *However, nothing in this paragraph shall be*
8 *interpreted to imply that the court is required to take the action*
9 *described in this paragraph as a prerequisite to the court taking*
10 *the action described in either paragraph (1) or paragraph (3).*

11 (3) Order that the parent assume custody subject to the
12 supervision of the juvenile court. In that case the court may order
13 that reunification services be provided to the parent or guardian
14 from whom the child is being removed, or the court may order
15 that services be provided solely to the parent who is assuming
16 physical custody in order to allow that parent to retain later
17 custody without court supervision, or that services be provided to
18 both parents, in which case the court shall determine, at review
19 hearings held pursuant to Section 366, which parent, if either,
20 shall have custody of the child.

21 (c) The court shall make a finding either in writing or on the
22 record of the basis for its determination under subdivisions (a)
23 and (b).

24 (d) Part 6 (commencing with Section 7950) of Division 12 of
25 the Family Code shall apply to the placement of a child pursuant
26 to paragraphs (1) and (2) of subdivision (e).

27 (e) When the court orders removal pursuant to Section 361,
28 the court shall order the care, custody, control, and conduct of the
29 child to be under the supervision of the social worker who may
30 place the child in any of the following:

31 (1) The home of a noncustodial parent as described in
32 subdivision (a).

33 (2) The approved home of a relative.

34 (3) The approved home of a nonrelative extended family
35 member as defined in Section 362.7.

36 (4) A foster home in which the child has been placed before an
37 interruption in foster care, if that placement is in the best interest
38 of the child and space is available.

39 (5) A suitable licensed community care facility.

1 (6) With a foster family agency to be placed in a suitable
2 licensed foster family home or certified family home which has
3 been certified by the agency as meeting licensing standards.

4 (7) A home or facility in accordance with the federal Indian
5 Child Welfare Act.

6 (8) A child under the age of six years may be placed in a
7 community care facility licensed as a group home for children, or
8 a temporary shelter care facility as defined in Section 1530.8 of
9 the Health and Safety Code, only under any of the following
10 circumstances:

11 (A) When a case plan indicates that placement is for purposes
12 of providing specialized treatment to the child, the case plan
13 specifies the need for, nature of, and anticipated duration of this
14 treatment, and the facility meets the applicable regulations
15 adopted under Section 1530.8 of the Health and Safety Code and
16 standards developed pursuant to Section 11467.1. The
17 specialized treatment period shall not exceed 120 days, unless
18 additional time is needed pursuant to the case plan as
19 documented by the caseworker and approved by the
20 caseworker's supervisor.

21 (B) When a case plan indicates that placement is for purposes
22 of providing family reunification services. In addition, the
23 facility offers family reunification services that meet the needs of
24 the individual child and his or her family, permits parents to have
25 reasonable access to their children 24 hours a day, encourages
26 extensive parental involvement in meeting the daily needs of
27 their children, and employs staff trained to provide family
28 reunification services. In addition, one of the following
29 conditions exists:

30 (i) The child's parent is also a ward of the court and resides in
31 the facility.

32 (ii) The child's parent is participating in a treatment program
33 affiliated with the facility and the child's placement in the facility
34 facilitates the coordination and provision of reunification
35 services.

36 (iii) Placement in the facility is the only alternative that
37 permits the parent to have daily 24-hour access to the child in
38 accordance with the case plan, to participate fully in meeting all
39 of the daily needs of the child, including feeding and personal
40 hygiene, and to have access to necessary reunification services.

1 (f) (1) If the child is taken from the physical custody of the
2 child's parent or guardian and unless the child is placed with
3 relatives, the child shall be placed in foster care in the county of
4 residence of the child's parent or guardian in order to facilitate
5 reunification of the family.

6 (2) In the event that there are no appropriate placements
7 available in the parent's or guardian's county of residence, a
8 placement may be made in an appropriate place in another
9 county, preferably a county located adjacent to the parent's or
10 guardian's community of residence.

11 (3) Nothing in this section shall be interpreted as requiring
12 multiple disruptions of the child's placement corresponding to
13 frequent changes of residence by the parent or guardian. In
14 determining whether the child should be moved, the social
15 worker shall take into consideration the potential harmful effects
16 of disrupting the placement of the child and the parent's or
17 guardian's reason for the move.

18 (4) When it has been determined that it is necessary for a child
19 to be placed in a county other than the child's parent's or
20 guardian's county of residence, the specific reason the
21 out-of-county placement is necessary shall be documented in the
22 child's case plan. If the reason the out-of-county placement is
23 necessary is the lack of resources in the sending county to meet
24 the specific needs of the child, those specific resource needs shall
25 be documented in the case plan.

26 (5) When it has been determined that a child is to be placed
27 out-of-county either in a group home or with a foster family
28 agency for subsequent placement in a certified foster family
29 home, and the sending county is to maintain responsibility for
30 supervision and visitation of the child, the sending county shall
31 develop a plan of supervision and visitation that specifies the
32 supervision and visitation activities to be performed and specifies
33 that the sending county is responsible for performing those
34 activities. In addition to the plan of supervision and visitation, the
35 sending county shall document information regarding any known
36 or suspected dangerous behavior of the child that indicates the
37 child may pose a safety concern in the receiving county. Upon
38 implementation of the Child Welfare Services Case Management
39 System, the plan of supervision and visitation, as well as
40 information regarding any known or suspected dangerous

1 behavior of the child, shall be made available to the receiving
2 county upon placement of the child in the receiving county. If
3 placement occurs on a weekend or holiday, the information shall
4 be made available to the receiving county on or before the end of
5 the next business day.

6 (6) When it has been determined that a child is to be placed
7 out-of-county and the sending county plans that the receiving
8 county shall be responsible for the supervision and visitation of
9 the child, the sending county shall develop a formal agreement
10 between the sending and receiving counties. The formal
11 agreement shall specify the supervision and visitation to be
12 provided the child, and shall specify that the receiving county is
13 responsible for providing the supervision and visitation. The
14 formal agreement shall be approved and signed by the sending
15 and receiving counties prior to placement of the child in the
16 receiving county. In addition, upon completion of the case plan,
17 the sending county shall provide a copy of the completed case
18 plan to the receiving county. The case plan shall include
19 information regarding any known or suspected dangerous
20 behavior of the child that indicates the child may pose a safety
21 concern to the receiving county.

22 (g) Whenever the social worker must change the placement of
23 the child and is unable to find a suitable placement within the
24 county and must place the child outside the county, the
25 placement shall not be made until he or she has served written
26 notice on the parent or guardian at least 14 days prior to the
27 placement, unless the child's health or well-being is endangered
28 by delaying the action or would be endangered if prior notice
29 were given. The notice shall state the reasons which require
30 placement outside the county. The parent or guardian may object
31 to the placement not later than seven days after receipt of the
32 notice and, upon objection, the court shall hold a hearing not later
33 than five days after the objection and prior to the placement. The
34 court shall order out-of-county placement if it finds that the
35 child's particular needs require placement outside the county.

36 (h) Where the court has ordered removal of the child from the
37 physical custody of his or her parents pursuant to Section 361,
38 the court shall consider whether the family ties and best interest
39 of the child will be served by granting visitation rights to the

1 child's grandparents. The court shall clearly specify those rights
2 to the social worker.

3 (i) Where the court has ordered removal of the child from the
4 physical custody of his or her parents pursuant to Section 361,
5 the court shall consider whether there are any siblings under the
6 court's jurisdiction, the nature of the relationship between the
7 child and his or her siblings, the appropriateness of developing or
8 maintaining the sibling relationships pursuant to Section 16002,
9 and the impact of the sibling relationships on the child's
10 placement and planning for legal permanence.

11 SEC. 3. Section 366.23 is added to the Welfare and
12 Institutions Code, to read:

13 366.23. If a noncustodial parent is seeking placement or
14 custody of a child, the social worker shall inform the caretaker
15 that he or she has the right to provide the court with input
16 regarding the placement of the child. The social worker shall
17 provide the "Caregiver Information Form" to the caretaker to
18 complete and request *that* the caregiver provide any particular
19 information the caregiver might have regarding the noncustodial
20 parent now seeking custody. If a report is required or otherwise
21 due, the completed form shall be attached to the social worker's
22 report to be filed with the court. If not, the social worker shall
23 ensure that, *if the foster parent completes the form*, the completed
24 form is returned to the court for review and consideration before
25 the child is placed with the noncustodial parent.

26 SEC. 4. If the Commission on State Mandates determines that
27 this act contains costs mandated by the state, reimbursement to
28 local agencies and school districts for those costs shall be made
29 pursuant to Part 7 (commencing with Section 17500) of Division
30 4 of Title 2 of the Government Code.